

English Learner (EL) Fiscal and Programmatic Handbook



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A

ACCESS FOR ELLS 2.0

All identified ELs must be assessed annually for English language proficiency in four domains: listening, speaking, reading, and writing. Once a student is identified as an EL student, that student is required to be assessed on the ELP assessment each year until the student meets the exit criteria, even if the parents have refused Title III-A or other language support services for the student. Beginning in 2015-2016, Alaska's English Learners in grades 1-12 will take ACCESS for ELLs 2.0® (Assessing Comprehension and Communication in English State-to-State for English Language Learners). ACCESS for ELLs 2.0 can be administered in a paper or online format. Alaska English Learners in Kindergarten are administered the Kindergarten ACCESS for ELLs. More information can be obtained through the [WIDA website](#).

- Title I-A requires that all ELs be assessed using the State's ELP assessment - ACCESS for ELLs 2.0. Because of this, neither Title I-A nor Title III-A funds can be used to pay for the State's ELP assessment, training to administer the assessment, nor any costs associated with the administration of the assessment.

ADMINISTRATIVE EXPENSES

"Each eligible entity receiving Title III funds for a fiscal year may use not more than 2 percent of such funds for administering the program." (ESEA Section 3115(b)).

- Administrative costs are associated with the overall project management and administration of the Title III-A program. An LEA may use no more than 2 percent of its LEA funds for administrative costs. However, as a result of the ESSA changes, any funds the LEA reserves for administrative costs may be used only for *direct* administrative costs. This provides an LEA with flexibility to apply its restricted indirect cost rate to the portion of its subgrant that it does not reserve for administrative costs.
- Direct costs generally include –
 - Salaries and wages (including vacations, holidays, sick leave, and other excused absences of employees working specifically on objectives of a grant or contract – ie., direct labor costs);
 - Other employee fringe benefits allocable on direct labor employees;
 - Consultant services contracted to accomplish specific grant objectives;
 - Travel of employees;
 - Materials, supplies, and equipment purchased directly for use on a specific grant or contract; and
 - Communication costs such as long distance telephone calls identifiable with a specific award or activity.

For more FAQs, visit [USDE Office of the Chief Financial Officer \(OCFO\)](#).

ALLOCATIONS

An LEA enrolling one or more English Learners during the previous school year qualifies for a Title III-A subgrant. Under Title III-A (Section 3114(b)), an SEA shall not award a subgrant from an allocation made under Section 3114(a) if the amount of the subgrant would be less than \$10,000. In short, once the minimum number of ELs needed to generate \$10,000 is determined, a per-student amount is determined by dividing \$10,000 by the minimum number of ELs required. The final allocation for each district is determined by multiplying the final per-student amount by the number of eligible ELs in the district.

Please note – The Native American and Alaska Native Children in School (NAM) Program under Title III-A Section 3112 of the ESEA provides competitive grants to eligible entities who serve English Learners (EL) who are American Indian or Alaska Native (AI/AN). Under section 3112(c) of the ESEA, an entity that is funded for a NAM program is ineligible to receive Title III-A formula subgrant funding

under section 3114 from its SEA for AI/AN EL students served under a NAM grant. A school district receiving NAM grant funds to serve AI/AN students may receive funds under the Title III-A formula grant program to serve other ELs in the district, but the ELs participating in the NAM program must not be included in the count of ELs used as the basis for the Title III-A formula subgrant.

ALLOWABLE USE OF FUNDS

Would this be an allowable use of Title III-A funds?

1. A district proposes to use Title III-A funds to provide monthly dinners for its English Learner (EL) parent advisory council. The amount proposed for these dinners is approximately 10% of the district's Title III-A allocation.

Generally, food and entertainment are not allowable, unless there is a specific reason food must be provided (such as an all-day meeting). This cost may not be reasonable. Advisement – no.

2. A district proposes to use Title III-A funds to support the salary of an administrator who, as part of his/her duties, administers the Title III-A funded activities.

This may be allowable, assuming Title III-A funds are only utilized to support his/her duties that are Title III-A related, however, this portion of his/her salary should be assigned to the 2% administrative cost under Title III-A.

3. My school district has faced budget cuts for FY2017 that includes the loss of two ESL/ELL teachers. Can our district use Title III-A funds to pay for all or any part of the salary to keep one of the ESL/ELL teachers employed in the district as an ESL/ELL teacher?

The district would need to determine whether this teacher provides services that are required by Lau (See [LAU V. NICHOLS, 1974](#)), and also apply the second test of supplement, not supplant – prior year – to determine whether this would be an allowable cost.

4. Consultant fees for consultant to deliver professional development session.

Yes, if training is above and beyond any training required under State law, and not required to meet Lau V. Nichols, 1974 provisions.

5. Payment of stipends to substitutes so teachers may attend professional development session during school hours.

Yes, if training is above and beyond any training required under State law, and not required to meet Lau V. Nichols, 1974 provisions.

6. Cost for tuition and fees for teacher to obtain ESL certification.

Yes, this may be considered supplemental, as LEAs would not normally pay these fees for all teachers.

7. ESL curriculum development.

Yes, if the LEA can demonstrate that this curriculum development is above and beyond what is required by the school, LEA, and State.

8. After school and/or summer programs, such as those that offer high-intensity language training after hours or during the summer.

Yes, if the LEA can demonstrate that these programs are above and beyond what is provided for by the school, LEA, and State.

9. Purchase of a laptop for immigrant students to use a language development software program.

If the laptop in question is something the district would not purchase in the absence of Title III-A funds, i.e., is not something they are otherwise be required purchase or have been purchasing, then it would not violate the non-supplanting requirement to make such a purchase. The LEA would need to have checks in place to ensure that the laptop is being utilized for the Title III-A or the immigrant children and youth program, however.

10. Textbooks that serve as a child's primary math or language arts textbook.

No. The LEA is responsible to provide this as part of the core educational program for all students.

11. Supplementary textbooks or reference guides that supplement the LEA-provided textbook.

Yes, if the LEA can demonstrate that they are supplemental.

12. Office supplies for the English learner student intake center.

No. Title III-A funds should only be used to support purchase of Title III-specific supplies, not supplies for the intake center.

13. Stipend to teachers to assess newly enrolled students for English language proficiency.

No, as the LEA is obligated to assess the English language proficiency of students identified under the Home Language Survey for placement and identification purposes.

14. ESL instructional coach whose duty is to administer the English language proficiency (ELP) assessment for placement and identification.

No, as the LEA is obligated to assess the English language proficiency of all students identified as English Learners, however, if the LEA can demonstrate that this position is supplemental, it may be allowable to utilize Title III-A funds for a portion of the coach's salary to support duties unrelated to ELP assessment administration or meeting Lau obligations.

15. Data clerk who enters data for Title III-A and Migrant Education.

A portion of the data clerk's salary to support his/her duties directly relevant to data entry for data required under Title III-A could be paid for by Title III-A funds. The portion of this individual's salary to support duties for other programs should be assigned to those programs. Documentation would need to be maintained to support this allocation

16. Can Title III-A funds be used to pay for a position the LEA will refer to as "EL Curriculum and Professional Development Facilitator"? Job duties for the position will be to provide guidance/training in ways to adapt/adjust the district curriculum to meet the needs of ELs.

This would not be an allowable use of Title III-A funds, since all LEAs have the responsibility, under Lau v. Nichols to ensure that ELs have equal access to education and making the curriculum accessible to EL students would be part of meeting that federal requirement. However, a position as Professional Development Facilitator, in and of itself, may be an allowable use of Title III-A funds, since Title III-A specifically requires professional development. The district would have to ensure that the professional development is supplemental and not for meeting other federal, state, or local requirements for serving ELs and meets all other supporting conditions (appropriately addressed in the application, benefits ELs only by serving their teachers only, and costs are necessary and reasonable).

17. Can an LEA use Title III funds for a Language Translator or Interpreter?

Whether this is allowable would depend on the exact responsibilities of the translator or interpreter, since Title III-A funds must only be used to supplement the level of federal, state, and local public funds that, in the absence of such availability, would have been expended for programs for English Learners. For example, translation of instructional materials or instruction in a language other than English would not be an allowable use of Title III-A funds, since it falls under the LEA's responsibility, under

Lau v. Nichols to offer ELs services to help them overcome their language barriers and to ensure that ELs have equal access to education and educational excellence.

This also applies to translation of general information for the LEA (e.g., translating information for the Spanish language version of the LEA website, newsletter, or other communications, translating information related to the LEA data system and to the State's achievement assessments, etc.).

If, however, the translation/interpreting is for a purpose above and beyond the level of other federal (including OCR and Title I, Part A), state, and local requirements, then this may be an allowable use of Title III-A funds. Possible examples would be to provide interpretation during a Title III-A parent involvement meeting or event or providing translation of materials to be used for supplemental parent classes, etc. Such an example may be an allowable use of funds, provided that all supporting conditions were met.

18. Can an LEA use Title III-A funds to purchase interactive boards for use in a secondary classroom with ELs?

Technology (to include interactive boards, computers, printers, classroom response, systems, etc.) may be an allowable expense for serving ELs in a secondary classroom, based on the following:

For use in a self-contained ESL classroom with ELs, the purchase of technology would be an allowable expense, provided all other supporting conditions are met (addressed in application, costs are necessary and reasonable, etc.). For use in a general education classroom with ELs, this would not be allowable.

19. Could Title III-A funds be used for EL teacher to travel to conferences?

*Yes, but must be **reasonable, necessary, and allocable**.*

See [Federal Register](#) – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule.

(§ 200.404 - Reasonable costs)

(§200.405– Allocable costs)

Trip to Bahamas – no.

C

CARRYOVER

There is no limitation of the unexpended balance of Title III-A funds to be carried over to the next fiscal year. Once the prior fiscal year grant is closed, the DEED grants administrator determines the actual amount of carryover available for the new fiscal year. The grants administrator includes the carryover amount in the new fiscal year grant award, or amends the new fiscal year grant award as applicable.

CLASSROOM MATERIALS

Title III-A funds should be used to increase English language proficiency and access to academic content through effective language instruction educational programs.

Title III-A funds may be used for “acquiring or developing education technology or instruction materials for English Learners, including materials in languages other than English.”

Technology can be purchased using Title III-A funds as long as that same technology is not being provided to non-English Learners with other state and/or federal funds.

Some examples of allowable technology/software:

- iPads

- Kindles
- laptops/netbooks
- electronic translators
- word-to-word dictionaries
- Imagine Learning Software
- Rosetta Stone Software
- Renaissance Learning - English in a Flash Software
- LeapFrog English language learning materials
- National Geographic Learning - English language teaching materials

E

ENGLISH LANGUAGE PROFICIENCY (ELP) ASSESSMENTS

Title III-A funds may not be used to administer State ELP assessments for progress because that would violate the supplement not supplant requirement since the ELP assessment is a requirement under Title I-A. Neither Title I-A nor Title III-A funds may be used to develop or administer ELP assessments for identification and placement purposes, **except** that Title III-A funds may be used for identification & placement assessments for private school students (if the use of such funds would not supplant other Federal, State or local funds that may be used for such purposes.)

EQUAL EDUCATIONAL OPPORTUNITIES ACT OF 1974

The Equal Educational Opportunities Act of 1974 prohibits state and local educational agencies from denying an individual an equal educational opportunity on the basis of race, color, sex, and national origin in several ways, including failing to take appropriate action to overcome language barriers that impede students' equal participation in instructional programs. (EEOA), [20 U.S.C. § 1703 (f)].

F

FOOD

Reasonable expenditures for refreshments of food, particularly when such sessions extend through mealtime, are allowable. Light refreshments are limited to snacks (i.e. cookies, vegetable/fruit tray, soft drinks, coffee, and water)

I

INTERPRETATION

LEAs and schools are obligated to provide meaningful access to information and services provided. Therefore, Title III-A funds may only be used for supplemental translation and interpretation activities that are not provided by the LEA for all students, and for translation activities that are specific to Title III-A.

[Title III –Translation & Interpretation Examples](#) (Angela Martinez-Gonzalez, USDE Office for Civil Rights, 2011 Webinar)

Translation means converting *written* text from one language to another language.

Interpretation means converting *spoken* language from one language to another language.

- If the LEA has a welcome center with staff who are responsible for administering the home language survey to all students and enrolling EL students, it would **not** be appropriate to utilize Title III-A funds to pay their salaries.
- If the LEA has a contract with a translation company that provides translated notices for Federal programs, then only the portion of the contract that pertains to Title III-A notices may be paid for with Title III-A funds.
- If the LEA or school communicates with all parents about their child's educational progress by mail, it would not be appropriate to use Title III-A funds to pay for the postage for ELs, as this communication is paid for by the LEA or school for all students, and this is not Title III-A specific.
- If the LEA or school communicates on a weekly basis with all parents about school activities, it would **not** be appropriate to use Title III-A funds to pay for translation or interpretation of these documents or activities, as this LEA and school are obligated to provide meaningful access to information and services provided. Title III-A funds could be used to pay for supplemental translation or interpretation.

When can Title III-A funds be used to pay for interpreters and translators?

- Translating the Home Language Survey into Spanish or Mandarin?
No – School districts have the federal requirement to meet the language needs of parents who are not proficient in English.
- Interpreting for students and their parents at the Parent-Teacher conferences?
Mostly no – Parent-Teacher conferences are made available to all students and generally a time when teachers connect with all parents including required information about such items as report cards or progress reports.

L

LAU V. NICHOLS, 1974

“In 1974, the Supreme Court ruled in *Lau v. Nichols* that school districts must provide special services to English Language Learners so that they have equal educational opportunity. In its ruling, the Court noted:

There is no equality of treatment merely by providing students with the same facilities, textbooks, teachers, and curriculum; for students who do not understand English are effectively foreclosed from any meaningful education. Basic English skills are at the very core of what these public schools teach. Imposition of a requirement that, before a child can effectively participate in the educational program, he/she must already have acquired those basic skills is to make a mockery of public education. We know that those who do not understand English are certain to find their classroom experiences wholly incomprehensible and in no way meaningful.” [414 U.S. 563 (1974)]

- Stands as the most basic and fundamental ruling about service requirements for ELs in all public schools.
- Basis for the Lau Memorandum from the Office for Civil Rights.
- School districts must help ELs overcome linguistic barriers in order to access instruction.

P

PARENTAL INVOLVEMENT

Title III-A funds may be used for “providing community participation programs, family literacy services, and parent and family outreach and training activities to English Learners and their families.” (ESEA Section 3115(d)(6)).

PARENTAL NOTIFICATION

Districts are required to provide the following notifications to parents of ELs. Parents must be *annually* notified within 30 days of the start of the school year that their student has been identified as an EL. If a student enrolled after the start of the school year, the notification must be within two weeks after placement in an EL program. (ESEA Section 1112(e)(3)) The notification must include:

- the reasons for identification;
- the level of English proficiency, how it was assessed, and the status of the child’s academic achievement;
- the methods of instruction to be used in the English language acquisition program;
- how the program will meet the educational strengths and needs of the child;
- how the program will help their child learn English and meet academic achievement standards for grade promotion and graduation;
- the exit requirements for the program, the expected rate of transition from the program into classrooms not tailored for English learners, and the expected rate of graduation from secondary school;
- in the case of a child with a disability, how the program meets the objectives of the IEP of the child; and
- information about their parental rights to withdraw their child from the program, to decline to have their child enrolled in the program or to choose another program or method if available, and information to assist parents in selecting among various programs if more than one is available.

LEAs may use Title III-A funds for:

- Personnel costs for translating Title III-A required parental notifications;
- Postage costs for mailing Title III-A required notifications;
- Personnel costs for holding meetings with families, as needed, in order to verbally relay via interpretation information contained in the Title III-a required notifications;
- Contract with translation company that translates these notifications. Title III-A funds can only be used for the portion of the contract that pertains to Title III-A.

PERSONNEL

Can a district use Title III-A funds to pay all or any part of the salary to keep a tutor or paraprofessional employed?

The LEA would need to determine whether this tutor or paraprofessional provides services that are required by Lau v. Nichols, 1974, and also apply the prior year test of supplement, not supplant –to determine whether this would be an allowable cost. Were state or local funds used in the past to pay for this program or activity? If so, using Title III-A funds to pay for it is supplanting.

*ELL/ESL Teachers who provide the core language instruction educational programs for ELs **cannot** be paid for with Title III-A funds. This would violate section 3115(g) of the ESEA because such services are*

required to be provided, even in the absence of Title III-A. State and local funds should be used to pay these salaries.

Examples of **allowable** Title III-A funded personnel:

- Tutors - working directly with ELs
- Bilingual/ESL Paraprofessionals - working directly with ELs under the direction of a certified teacher
- ESL Instructional Coaches - Their role is to acquire effective practices, provide professional development, and mentor and coach teachers who are working directly with ELs.

PRIVATE SCHOOLS

Title III-A does not require LEAs to administer their State's annual English language proficiency (ELP) assessment for identified ELs in private schools. LEAs are required under Title VIII (ESEA Section 8501) to consult with the private school officials regarding:

- How the Title III-A services provided to private schools and teachers will be assessed; and how the results of the assessment will be used to improve those services.

If the LEA and private school officials agree, through timely and meaningful consultation, that an ELP assessment will be used for either identification of ELs or assessment of effectiveness of services, which party is responsible for costs associated with assessment administration?

In the scenario described above, the LEA is ultimately responsible for covering the costs of administering these assessments. The LEA and private school officials are advised to ensure that the ELP assessment(s) are: a) the most appropriate instrument(s) to administer to the target students and b) the assessment(s) are valid and reliable for these students.

Title III-A Services to ELs in Private Schools:

Examples -

- Administration of English language proficiency (ELP) assessment for identification and/or for the purpose of evaluating the effectiveness of services (test booklets, teacher training, stipends to teachers to administer assessments);
- Participation in district-sponsored professional development (PD), or PD organized specifically to meet the needs of the private school teachers;
- Tutoring for students before, during, or after school hours;
- Participation of private school ELs in summer school;
- Participation of students in a weekend program; and
- Purchase of supplemental instructional materials and supplies.

Title III-A funds may **not** be used to finance the existing level of instruction in a private school. Services must supplement and not supplant the Federal, state, or local funds the private school would otherwise offer absent the Title III-A program.

PROFESSIONAL DEVELOPMENT

Required activity (ESEA Section 3115(c)(2)) – An eligible entity receiving Title III-A funds shall use the funds -

(2) to provide effective professional development for classroom teachers (including teachers in classroom settings that are not the setting of language instruction educational programs), principals and

other school leaders, administrators, and other school or community-based organizational personnel that is -

- (A) designed to improve the instruction and assessment of English Learners;
- (B) designed to enhance the ability of such teachers, principals, and other school leaders to understand and implement curricula, assessment practices and measures, and instructional strategies for English Learners;
- (C) effective in increasing children's English language proficiency or substantially increasing the subject matter knowledge, teaching knowledge, and teaching skills of such teachers; and
- (D) sufficient intensity and duration (which shall not include activities such as 1-day or short term workshops and conferences) to have a positive and lasting impact on teachers' performance in the classroom, except that this subparagraph shall not apply to an activity that is one component of a long-term, comprehensive professional development plan established by a teacher and the teacher's supervisor based on an assessment of the teacher, the supervisor, the students of the teacher, and any local educational agency employing the teacher, as appropriate.

There is no set percentage of professional development defined in federal law.

Example of **non-allowable** Title III-A activities:

- Legislative training
- Motivational speakers
- Training to administer the W-APT Placement test or the ACCESS for ELLs 2.0 assessment

R

REALLOCATIONS

Whenever an SEA determines that amount from an allocation made to an eligible entity for a fiscal year will not be used by the entity for the purpose for which the allocation was made, the agency shall, in accordance with such rules as it determines to be appropriate, reallocate such amount, consistent with this subsection to other eligible entities in the State that the agency determines will use the amount to carry out that purpose (ESEA Section 3114(c)).

Consistent with Section 3114(c) above, DEED will use the following criteria to determine which Title III-A funds will be reallocated:

Excess Title III-A funds available from an LEA that:

- Is not participating in the Title III LEA program;
- Has excess funds for other reasons; or
- Funds that an SEA has recovered after determining that an LEA has failed to spend Title III-A funds in accordance with the law.

Reallocated funds will be added to the overall sections 3114(a) formula funds to LEAs and distributed according to the current fiscal year allocation formula.

REQUIRED ACTIVITIES

The following three activities are required for Title III districts (ESEA Section 3115(c)):

1. To increase the English proficiency of English Learners by providing effective language instruction educational programs that meet the needs of English Learners and demonstrate success in increasing English language proficiency and student academic achievement.
2. Provide quality professional development of sufficient intensity and duration to have a lasting impact on classroom instruction. (For more information, see **PROFESSIONAL DEVELOPMENT**)
3. Provide and implement other effective activities and strategies that enhance or supplement language instruction educational programs for English learners which shall include parent, family, and community engagement activities and may include strategies that serve to coordinate and align related programs.

S

SUMMER SCHOOL

Summer school programs, such as those that offer effective language instruction educational programs during the summer are allowed under Title III-A as long as the school can demonstrate that the program is above and beyond what is provided by the school and the LEA. In other words, a summer school program for ELs cannot be funded out of Title III-A if a summer school program is already being funded out of Title I-A funds and both programs occur at the same time. The Title III-A summer school program must be designed to assist ELs in making progress in attaining English language proficiency and developing high levels of academic achievement. The curriculum used must be substantially different than what is used in any other summer school provided to ELs. In addition, the Title III-A summer school must be conducted at a different time than the Title I-A summer school.

SUPPLEMENT, NOT SUPPLANT

Title III-A funds cannot be used to fulfill an LEA's obligation under Title VI of the Civil Rights Act of 1964 and the Equal Educational Opportunities Act (EEOA).

Under Title VI of the Civil Rights Act of 1964 and the EEOA, all States and LEAs must ensure that ELs can participate meaningfully and equally in educational programs and services. To meet their obligations under Title VI and the EEOA, LEAs must, for example:

- Identify and assess all potential EL students in a timely, valid, and reliable manner;
- Provide EL students with a language assistance program that is educationally sound and proven successful, consistent with *Castañeda v. Pickard* and the Supreme Court decision in *Lau v. Nichols*;
- Provide sufficiently well prepared and trained staff and support the language assistance programs for EL students;
- Ensure that EL students have equal opportunities to meaningfully participate in all curricular and extracurricular activities;
- Avoid unnecessary segregation of EL students;
- Ensure that EL students who have or are suspected of having a disability under the Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act of 1973 are identified, located, and evaluated in a timely manner and that the language needs of students who need special education and disability related services because of their disability are considered in evaluations and delivery of services;

- Meet the needs of EL students who opt out of language assistance programs;
- Monitor and evaluate EL students in language assistance programs to ensure their progress with respect to acquiring English proficiency and grade level content knowledge, exit EL students from language assistance programs when they are proficient in English, and monitor exited students to ensure they were not prematurely exited and that any academic deficits incurred in the language assistance program have been remedied;
- Evaluate the effectiveness of a school district's language assistance program(s) to ensure that EL students in each program acquire English proficiency and that each program is reasonably calculated to allow EL students to attain parity of participation in the standard instructional program within a reasonable period of time; and
- Ensure meaningful communication with English learner (EL) parents.

Section 3115(g) of the ESEA, as amended by ESSA states that Title III-A funds shall be used as to supplement the level of Federal, State, and local public funds that, in the absence of such availability, would have been expended for programs for English Learners and immigrant children and youth and in no case to supplant such Federal, State, and local public funds.

For further information, visit DEED's [Supplement, not Supplant](#) guidance document.

T

TRAVEL

The costs for staff travel and conferences are allowable if the travel and conferences are specifically related to the Title III-A program and not to the general needs of the LEA or school and are reasonable, necessary and allocable. (See [ALLOWABLE USE OF FUNDS](#) - #19)

TECHNOLOGY

(See classroom supplies)

TUITION

Costs for tuition and fees for teachers to obtain English as a Second Language (ESL) certification may be paid out of Title III-A funds. The ESL Certification test may also be paid for out of Title III-A funds. This may be considered supplemental, as LEAs would not normally pay these fees for teachers.

TUTORS

Tutoring, counseling, and student service programs designed to improve academic success of English Learners are an allowable use of Title III-A funds.